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History: C. 1953, 4-14-10, enacted by L. 1981, ch. 126, § 32.

Repeals and Reenactments. — Laws 1981, ch. 126, § 32 repealed former § 4-14-10 as enacted by Laws 1979, ch. 2, § 15, relating to the Pesticide Committee, and enacted the present section.

Compiler's Notes. — Section 63-2-15, referred to at the end of Subsection (3), was repealed by Laws 1981, ch. 257, § 13. The bracketed language following reference to that section was inserted pursuant to instructions by the Office of Legislative Research and General Counsel.

4-14-11. Repealed.

Repeals. — Sections 4-14-11, as enacted by Laws 1979, ch. 2, § 15, making violations of

the chapter class "B" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 15

UTAH NURSERY ACT

Section

- 4-15-1. Short title.
- 4-15-2. Definitions.
- 4-15-3. Department authorized to make and enforce regulations.
- 4-15-4. Unlawful to offer nursery stock for sale or to solicit orders for nursery stock without license.
- 4-15-5. License — Application — Fees — Expiration — Renewal.
- 4-15-6. Nursery stock for wholesale or retail sale — Graded and sized — Labels and tags — Information to appear on label or tag.
- 4-15-7. Inspection — Issuance of certificate — Destruction of infested or diseased stock.
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- inspection — Imported stock to be tagged — Treatment of stock not tagged.
- 4-15-9. Nursery stock offered or advertised for sale — Unlawful to misrepresent name, origin, grade, variety, quality or vitality — Information required in advertisements.
- 4-15-10. Infested or diseased stock not to be offered for sale — Identification of "nonestablished container stock" — Requirements for container stock — Inspected and certified stock only to be offered for sale — Prohibition against coating aerial plant surfaces.
- 4-15-11. Enforcement — Inspection — Stop sale order — Procedure — Warrants.
- 4-15-12. Suspension or revocation — Grounds — Notice and hearing.
- 4-15-13. Repealed.

4-15-1. Short title.

This chapter shall be known and may be cited as "The Utah Nursery Act."

History: C. 1953, 4-15-1, enacted by L. 1979, ch. 2, § 16.

COLLATERAL REFERENCES

- Am. Jur. 2d.** — 3 Am. Jur. 2d Agriculture § 55.
- C.J.S.** — 3 C.J.S. Agriculture § 68.

4-15-2. Definitions.

As used in this chapter:

(1) "Balled and burlapped stock" means nursery stock which is removed from the growing site with a ball of soil containing its root system intact and encased in burlap or other material to hold the soil in place;

(2) "Bare-root stock" means nursery stock which is removed from the growing site with the root system free of soil;

(3) "Container stock" means nursery stock which is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period sufficient to allow newly developed fibrous roots to form so that if the plant is removed from the container its root-media ball will remain intact;

(4) "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight;

(5) "Minimum indices of vitality" mean standards adopted by the department to determine the health and vigor of nursery stock offered for sale in this state;

(6) "Nonestablished container stock" means deciduous nursery stock which is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period insufficient to allow the formation of fibrous roots sufficient to form a root-media ball;

(7) "Nursery" means any place where nursery stock is propagated and grown for sale or distribution;

(8) "Nursery outlet" means any place or location where nursery stock is offered for wholesale or retail sale;

(9) "Nursery stock" means all plants, whether field grown, container grown, or collected native plants; trees, shrubs, vines, grass sod; seedlings, perennials, biennials; and buds, cuttings, grafts, or scions grown or collected or kept for propagation, sale, or distribution; except that it shall not mean dormant bulbs, tubers, roots, corms, rhizomes, pips; field, vegetable, or flower seeds; or bedding plants, annual plants, florists' greenhouse or field-grown plants, flowers or cuttings;

(10) "Place of business" means each separate nursery, or nursery outlet, where nursery stock is offered for sale, sold, or distributed;

(11) "Packaged stock" means bare-root stock which is packed either in bundles or in single plants with the roots in some type of moisture-retaining material designed to retard evaporation and hold the moisture-retaining material in place.

History: C. 1953, 4-15-2, enacted by L.
1979, ch. 2, § 16.

4-15-3. Department authorized to make and enforce regulations.

The department is authorized, subject to the Utah [Administrative] Rule-making Act, to make and enforce such regulations as in its judgment are necessary to administer and enforce this chapter.

History: C. 1953, 4-15-3, enacted by L. 1979, ch. 2, § 16.

Cross-References. — Utah Administrative Rulemaking Act, §§ 63-46a-1 to 63-46a-16.

4-15-4. Unlawful to offer nursery stock for sale or to solicit orders for nursery stock without license.

It is unlawful for any person in this state to offer nursery stock for sale at a nursery or nursery outlet, or to solicit or receive orders for nursery stock for a person who regularly engages in the business of operating a nursery or nursery outlet, without a license issued by the department.

History: C. 1953, 4-15-4, enacted by L. 1979, ch. 2, § 16.

Cross-References. — Doing business without license, § 76-8-410.

4-15-5. License — Application — Fees — Expiration — Renewal.

(1) Application for a license to operate a nursery or nursery outlet or to solicit or receive orders of nursery stock for a person regularly engaged in the business of operating a nursery or nursery outlet shall be made to the department on forms prescribed and furnished by it. Upon receipt of a proper application and compliance with applicable regulations, and payment of a license fee determined by the department pursuant to Subsection 4-2-2(2) for each place of business where the applicant intends to offer nursery stock for wholesale or retail sale, or the payment of a fee determined by the department pursuant to Subsection 4-2-2(2) in the case of an agent, the commissioner, if satisfied the convenience and necessity of the industry and the public will be served, shall issue a license to engage in the otherwise proscribed activity through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

(2) A license to operate a nursery or nursery outlet or an agent's license is renewable on or before December 31 of each year for a period of one year upon the payment of an annual license renewal fee determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-15-5, enacted by L. 1979, ch. 2, § 16; L. 1984 (2nd S.S.), ch. 15, § 14; 1985, ch. 130, § 10.

Amendment Notes. — The 1984 (2nd S.S.) amendment substituted "fee determined by the department pursuant to Subsection 63-38-3(2)"

for "fee of \$10"; and made minor changes in phraseology, punctuation and style.

The 1985 amendment substituted "Subsection 4-2-2(2)" for "Subsection 63-38-3(2)" throughout the section.

4-15-6. Nursery stock for wholesale or retail sale — Graded and sized — Labels and tags — Information to appear on label or tag.

Each type of nursery stock delivered to a nursery or nursery outlet for subsequent wholesale or retail sale shall be sized and graded in accordance with the applicable regulations of the department and shall bear a tag or label with the name, grade, size, and variety of the stock. Each bundle, single lot, or single nursery stock sold at retail shall bear a secure tag or label with the

common or botanical name, grade, size, and variety of the stock legibly printed or written on it.

History: C. 1953, 4-15-6, enacted by L.
1979, ch. 2, § 16.

4-15-7. Inspection — Issuance of certificate — Destruction of infested or diseased stock.

(1) Each nursery shall be inspected by the department at least once each year. If upon inspection it appears that the nursery and its stock are free of insect pests and plant disease the department shall issue a certificate to that effect to the nursery.

(2) Each nursery outlet shall be inspected by the department at least once each year during the period nursery stock is offered for retail sale. An inspection certificate may be issued by the department to a nursery outlet to permit the interstate shipment of nursery stock if the stock contemplated for shipment appears free of insect pests and plant disease.

(3) Nursery stock found to be infested with insect pests or infected with plant disease shall be destroyed or otherwise treated as determined by the department.

History: C. 1953, 4-15-7, enacted by L.
1979, ch. 2, § 16.

4-15-8. Transport for out-of-state nursery stock to Utah — Certificate of inspection to be filed with department by out-of-state nurseries — Option in department to accept exchange list in lieu of certificate of inspection — Imported stock to be tagged — Treatment of stock not tagged.

(1) Out-of-state nurseries and nursery outlets transporting nursery stock to a nursery or nursery outlet in this state shall annually deliver to the department a certified duplicate copy of the "state of origin" certificate of inspection for each such out-of-state nursery or nursery outlet; provided, that the department may accept and exchange a list of certified or licensed out-of-state nurseries or nursery outlets in lieu of a certificate of inspection for each such individual nursery or nursery outlet.

(2) Nursery stock originating outside and imported into this state for customer delivery or for resale shall bear a tag stating that the nursery stock has been inspected and certified free from plant pests and disease. The tag shall also bear the name and address of the shipper or consignor. A shipment of nursery stock destined for delivery in this state which is not accompanied with such a tag may be returned to the owner or consignor at such person's expense, or may be destroyed, or otherwise disposed of by the department without compensation to the owner or consignor.

History: C. 1953, 4-15-8, enacted by L.
1979, ch. 2, § 16.

4-15-9. Nursery stock offered or advertised for sale — Unlawful to misrepresent name, origin, grade, variety, quality or vitality — Information required in advertisements.

No person shall misrepresent the name, origin, grade, variety, quality, or indice of vitality of any nursery stock advertised or offered for sale at a nursery or nursery outlet. All advertisements of nursery stock shall clearly state the name, size, and grade of the stock where applicable.

History: C. 1953, 4-15-9, enacted by L.
1979, ch. 2, § 16.

4-15-10. Infested or diseased stock not to be offered for sale — Identification of "nonestablished container stock" — Requirements for container stock — Inspected and certified stock only to be offered for sale — Prohibition against coating aerial plant surfaces.

(1) Nursery stock which is infested with plant pests, including noxious weeds, or infected with disease or which does not meet minimum indices of vitality shall not be offered for sale.

(2) All nonestablished container stock offered for sale shall be identified by the words "nonestablished container stock" legibly printed on a water resistant tag which states the length of time it has been planted or the date it was planted and shall not be offered for sale in any manner which leads a purchaser to believe it is container stock.

(3) All container stock offered for sale shall be established with a root-media mass that will retain its shape and hold together when removed from the container.

(4) No nursery stock other than officially inspected and certified stock shall be offered for wholesale or retail sale in this state.

(5) Colored waxes or other materials which coat the aerial parts of a plant and change the appearance of the plant surface are prohibited.

History: C. 1953, 4-15-10, enacted by L.
1979, ch. 2, § 16.

4-15-11. Enforcement — Inspection — Stop sale order — Procedure — Warrants.

(1) The department may issue a "stop sale" order to any nursery or nursery outlet which it finds, or has reason to believe, is offering, advertising, or selling nursery stock in violation of § 4-15-10. The "stop sale" order shall be in writing and no nursery stock subject to it shall be advertised or sold, except upon subsequent written release by the department.

(2) The department is authorized for the purpose of ascertaining compliance with this chapter to enter and inspect any nursery or nursery outlet where nursery stock is kept during their business hours. If access for the purpose of inspection is denied, the department may proceed immediately to the nearest court of competent jurisdiction and obtain an ex parte warrant or its equivalent to permit inspection of the nursery or nursery outlet.

History: C. 1953, 4-15-11, enacted by L. 1979, ch. 2, § 16.

Cross-References. — Enforcement of Agricultural Code, § 4-1-4.

4-15-12. Suspension or revocation — Grounds — Notice and hearing.

The department may suspend or revoke the license of any nursery, nursery outlet, or agent that violates § 4-15-9 or 4-15-10; provided, that no suspension or revocation shall be effective until after the nursery, nursery outlet, or agent is afforded notice and a hearing.

History: C. 1953, 4-15-12, enacted by L. 1979, ch. 2, § 16.

Cross-References. — Procedure for suspension or revocation of licenses, § 4-1-5.

4-15-13. Repealed.

Repeals. — Section 4-15-13, as enacted by Laws 1979, ch. 2, § 16, making violations of

the chapter class "B" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 16

UTAH SEED ACT

Section

- 4-16-1. Short title.
- 4-16-2. Definitions.
- 4-16-3. Department authorized to make and enforce regulations — Cooperation with state and federal agencies authorized.
- 4-16-4. Labeling requirements specified for containers of agricultural seed, mixtures of lawn and turf seed, vegetable seed, flower seed, and tree and shrub seed.
- 4-16-5. Distribution of seeds — Germination tests required — Results to appear on label — Seed to be free of noxious weed seed — Special requirements for treated seeds — Prohibitions.
- 4-16-6. Chapter inapplicable to seed not intended for sowing, to seed at seed

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- processing plant, or to seed transported or delivered for transportation in the ordinary course of business.
- 4-16-7. Inspection — Samples — Analysis — Seed testing facilities to be maintained — Regulations to control offensive seeds — Notice of offending seeds — Warrants.
- 4-16-8. Enforcement — Stop sale, use, or removal authorized — Court action — Procedures — Costs.
- 4-16-9. Designation of official testing agency for certification of seed.
- 4-16-10. False or misleading advertising with respect to seed quality prohibited.
- 4-16-11. Distributors of seed to keep record of each lot of seed distributed.
- 4-16-12. Repealed.